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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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STATE DOCUMENTS

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OFFICE OF RESEARCH

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fee, the bill provides for a biennial special motor vehicle license fee of one hundred dollars. Funds collected from the special motor vehicle license fee must be distributed to the South Carolina Technology Alliance for the continued development of high technology programs across the State and to provide resources for South Carolina Technology Entrepreneurs. The remaining funds must be administered by the South Carolina Technology Alliance, used only for efforts to develop and manage technology entrepreneur programs for South Carolina entrepreneurial high technology businesses, and deposited in an appropriate nonprofit account designated by the South Carolina Technology Alliance. The department shall reserve the initial fifty license plates in this series for use by the South Carolina Technology Alliance. The legislation subjects the plates to the requirements for minimum orders imposed on special license plates.

A conference committee was appointed to address differences with the Senate on S.322, pertaining to the **South Carolina Guardian Ad Litem Program**.

The House approved and sent to the Senate **H.4944**. This bill codifies a definition for "restricted fertilizer," which is a commercial fertilizer having a potential explosive capacity that is determined to present an unreasonable threat to public safety. The stated intent of the bill is to provide and allow for **monitoring of the distribution of restricted fertilizers** in this State and to encourage distributors to sell restricted fertilizers only to persons known to use such fertilizer for farm or garden purposes. The bill provides for fertilizer distribution permits, distinguishing between general and restricted fertilizer permits. A general permit authorizes the permit holder to engage in the distribution of commercial fertilizers except those determined to be restricted fertilizers. A restricted fertilizer permit authorizes the permit holder to engage in the distribution of all commercial fertilizers, including those that are designated as restricted fertilizers. The bill provides that for homeland security purposes, identifying information relating to the holder of a general or restricted fertilizer permit is exempt from disclosure under the Freedom of Information Act. The bill provides that violation of these provisions is a misdemeanor and the bill provides penalties for conviction.

The House amended, approved, and sent to the Senate **H.4989**, a bill pertaining to **information on death penalty cases maintained by the Office of Court Administration**. This bill provides that when a solicitor gives a defense attorney notice of the solicitor's intent to seek the death penalty, as required, the solicitor also must provide a copy of his notice of intent to seek the death penalty to the court administrator of this State. The solicitor's notice to the court administrator also must include the date notice is made, the alleged crime, the date the alleged crime occurred, the county in which the alleged crime occurred, demographic information about the victim, and the person or persons charged with the crime, including their age, race, sex, and ethnic background. The court administrator must use data provided by the solicitors to maintain records and statistics regarding the basic information submitted by the solicitors. The Office of Court Administration must compile, collate, index, and maintain a file of the required information and make the file available to the general public during the normal business hours of the

whether privatization of its functions and activities or other legislative initiatives could improve customer service for those who use its services. The resolution provides that the Speaker of the House shall appoint six House members to serve on the Committee and to report their recommendations to the Speaker on or before February 15, 2003. The Commission's existence would terminate on the earlier occurrence of the submission of its report or February 15, 2003, unless the House extends it.

The House approved and sent to the Senate H.5133. This bill provides that a public institution of higher learning shall notify incoming students, or the parent or guardian of an incoming student under the age of eighteen, of the **risk of contracting meningococcal disease if living in on-campus student housing**. A public institution of higher learning shall include vaccination against meningococcal disease as a recommended immunization in health and medical information provided to students, or prospective students, and parents or guardians

The House approved and sent to the Senate H.4435, a bill that revises South Carolina Tort Claims provisions so as to **eliminate the requirement that a tort claim be verified**.

The House returned S.1085 to the Senate with amendments. This bill revises provisions relating to the **State Board of Law Examiners**, so as to provide that the board shall be appointed by the Supreme Court and shall have such duties as the court shall prescribe. The number of members of the board and the terms of the members shall be set by the Supreme Court. To be eligible for appointment to the board, a person must be actively engaged in the practice of law in South Carolina and must have been an active member of the South Carolina Bar for at least seven years. At least one member from each congressional district must be appointed by the Supreme Court. The bill also revises a provision relating to **citizens not prevented from appearing in court in person or for others without reward**. The legislation retains the existing provision authorizing a citizen to prosecute or defend his own cause, if he so desires. The legislation eliminates the provision authorizing a citizen to prosecute or defend the cause of another, with leave of the court first had and obtained; provided, that he declare on oath, if required, that he neither has accepted nor will accept or take any fee, gratuity or reward on account of such prosecution or defense or for any other matter relating to the cause.

The House amended, approved, and sent to the Senate H.3905. This bill authorizes the **payment of fines, fees, assessments, court costs, and surcharges in circuit court, family court, magistrates court, and municipal court by credit card or debit card**. The legislation authorizes the imposition of a fee for processing payment by credit card. Notwithstanding fees imposed by other provisions of law, the clerk of court, magistrate, and municipal court judge must impose a separate fee on the person making a payment by credit card that wholly offsets the amount of administrative fees charged to the court. If a payment by credit card is not honored by the credit card company on which the funds are drawn, the court may collect a service charge equal to that charged for checks drawn on an account with insufficient funds. Credit or debit card payments may be refused if: (1) the

bill provides that within a prescribed time period DHEC shall promulgate a modification to R.61-68 clarifying that the provisions pertaining to use reclassification at R.61-68E.6 also are applicable to the issuance of variances from the water quality criteria for a period not to exceed the term of an NPDES permit, subject to renewal upon expiration of that period.

The House amended, approved, and sent to the Senate **H.4096**, a bill that revises South Carolina's insurance laws so as to bring them into **compliance with National Association of Registered Agents and Brokers (NARAB) provisions**. Under the Gramm-Leach-Bliley Act, should states fail to either enact uniform laws or reciprocity laws by November 12, 2002, the National Association of Registered Agents and Brokers (NARAB) will be established to provide a mechanism through which uniform licensing, appointment, continuing education, and other requirements can be adopted and applied on a multi-state basis. This bill provides revisions necessary for South Carolina to comply with NARAB provisions by establishing reciprocity laws. The legislation creates uniformity in such matters as exemptions from producer licensing, the application process, license fees, education requirements, and standards for commission sharing.

The House returned **S.892** to the Senate with amendments. This bill **revises the manner of appointment and terms of service of the Winthrop University Board of Trustees** and also **imposes attendance requirements for board members of public institutions of higher learning** (including technical and comprehensive educational institutions). The bill requires that of the seven members of the Winthrop Board to be elected by the General Assembly, one must be elected from each of the six Congressional Districts (and must be a resident of that district) and one must be elected by the General Assembly from the state at large. The bill provides for numbering the seats to correspond to the number of the Congressional District, and provides a schedule for filling future vacancies by seat number. The bill provides that Seat Eight shall be occupied by the State Superintendent of Education or his designee; Seat Eleven shall be a member appointed by the Governor; and the Governor or his designee shall occupy Seat Twelve. The bill provides that the members of the Board elected by the Winthrop University Alumni Association shall be elected for four-year terms to fill seats Nine and Ten in 2002. The bill provides that in 2006, the person elected by the Winthrop University Alumni Association to fill Seat Nine shall serve a six year term and the person elected to fill Seat Ten shall serve a four-year term. At the completion of those terms of office, all subsequent members of the board elected by the Winthrop University Alumni Association to fill Seats Nine and Ten shall be elected for six year terms. The term of the at-large trustee appointed by the Governor is coterminous with the term of office of the Governor. **S.892** also requires that board members of public institutions of higher learning must attend at least two-thirds of the regular and special meetings of the board during a calendar year or a vacancy in that board is deemed to exist as of January first of the next year. The bill provides for reporting violations of the attendance requirements and provides that a member who missed such meetings is ineligible for reelection or reappointment to that board for a period of ten years thereafter.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full Judiciary Committee met on Tuesday, April 23, and reported out several pieces of legislation.

The Committee gave a report of favorable with amendment on **S.820**, a bill providing for a **prohibition on human cloning**. The legislation provides that no person shall knowingly or with reckless disregard: (1) perform or attempt to perform human cloning or derive any product from human cloning; (2) participate in an attempt to perform human cloning or derive any product from human cloning; (3) ship, receive, transport, transfer, or distribute in intrastate commerce for any purpose an embryo produced by human cloning or any product derived from such embryo. A person who violates these provisions is guilty of a felony and, upon conviction, must be fined not more than one hundred thousand dollars or imprisoned for not more than ten years, or both. However, in the case of a violation that involves the derivation of a pecuniary gain, the person must be fined not less than one million dollars and not more than an amount equal to the amount of the gross gain multiplied by two, if that amount is greater than one million dollars. Each violation constitutes a separate offense. A license to practice a profession or occupation issued by a board, agency, or department of this State must be suspended immediately upon conviction of a licensee violating these provisions while engaging in that profession or occupation. The legislation does not restrict areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans or human-animal chimera.

The Committee gave a report of favorable with amendment on **S.1085**. This bill revises provisions relating to the **State Board of Law Examiners**, so as to provide that the board shall be appointed by the Supreme Court and shall have such duties as the court shall prescribe. The number of members of the board and the terms of

The legislation authorizes the imposition of a fee for processing payment by credit card. Notwithstanding fees imposed by other provisions of law, the clerk of court, magistrate, and municipal court judge must impose a separate fee on the person making a payment by credit card that wholly offsets the amount of administrative fees charged to the court. If a payment by credit card is not honored by the credit card company on which the funds are drawn, the court may collect a service charge equal to that charged for checks drawn on an account with insufficient funds. Credit or debit card payments may be refused if: (1) the individual has been convicted of a financial transaction card crime; (2) the individual has previously tendered to the court a credit or debit card or credit or debit card information which did not ultimately result in payment by the credit or debit card issuer; (3) the bank or credit card issuer does not authorize payment; or (4) the validity of the credit or debit card is not verifiable.

The Committee gave a report of favorable with amendment on **H.4861**. This bill authorizes the **suspension of driver's license for failure to comply with a citation for a violation of a law regulating hunting, fishing, or boating** issued in this or another compact jurisdiction. Such suspensions are provided in addition to the driver's license suspensions authorized by failure to comply with traffic citations.

The Committee gave a report of favorable with amendment to **H.3056**, the **Domestic Violence Prevention Act**. The legislation provides for various penalty enhancements for domestic violence offenses. The legislation revises provisions relating to when the death penalty may be sought in a murder case so as to add as an aggravating circumstance that the murder has been committed in violation of certain restraining orders or protective orders relating to domestic abuse. The legislation revises provisions relating to when the death penalty may be sought in a murder case so as to add as an aggravating circumstance that the murder victim was a household member and the defendant had at least one prior conviction for committing against the victim a criminal domestic violence offense, assault and battery of a high and aggravated nature, assault and battery with intent to kill, an offense against the person, or a related offense. The legislation revises the offense of criminal domestic violence of a high and aggravated nature, converting the offense from a misdemeanor to a felony and eliminating the option that the penalty take the form of a fine. The bill provides that a person who violates Section 16-25-20 (pertaining to actual, attempted or offered physical abuse of a household member), and who has previously been convicted of a violation of that section or Section 16-25-65 (criminal domestic violence of a high and aggravated nature) within the previous ten years, is guilty of the misdemeanor of criminal domestic violence and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than thirty days. The bill revises definitions of "household member" under criminal domestic violence and protection from domestic abuse provisions so as to eliminate from the definition persons related by consanguinity or affinity within the second degree. This bill revises penalties for various domestic abuse offenses by providing that the court may suspend the imposition or execution of all or part of the sentence conditioned upon the offender completing, to the satisfaction of the court, a program designed to treat batterers offered through a government agency, nonprofit organization, or private provider approved by the

may be tried in his absence or a bench warrant may be issued for his arrest. The summons must be served personally upon the defendant. The bill establishes provisions for the form containing the summons to appear.

The Committee gave a report of favorable with amendment on H.4989, a bill pertaining to **information on death penalty cases maintained by the Office of Court Administration**. This bill provides that when a solicitor gives a defense attorney notice of the solicitor's intent to seek the death penalty, as required, the solicitor also must provide a copy of his notice of intent to seek the death penalty to the court administrator of this State. The solicitor's notice to the court administrator also must include the date notice is made, the alleged crime, the date the alleged crime occurred, the county in which the alleged crime occurred, demographic information about the victim, and the person or persons charged with the crime, including their age, race, sex, and ethnic background. The court administrator must use data provided by the solicitors to maintain records and statistics regarding the basic information submitted by the solicitors. The Office of Court Administration must compile, collate, index, and maintain a file of the required information and make the file available to the general public during the normal business hours of the offices of Court Administration. The legislation provides a procedure for making corrections to the file.

The Committee gave a report of favorable with amendment on H.5048, a bill **requiring members of the clergy to report suspected child abuse or neglect**. The legislation adds members of the clergy to the list of professionals required to report suspected child abuse or neglect. Under the legislation, a clergy member must comply with reporting requirements except when information is received during a communication that is protected by the clergy and penitent privilege as defined in Section 19-11-90.

The Committee gave a report of favorable with amendment on H.3774. This bill provides that no **common law marriage** entered into in this State after December 31, 2002, is valid. Otherwise valid common law marriages entered into before January 1, 2003, are not affected by this section and continue to be recognized in this State.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, April 23, and gave a report of favorable with amendment on H.5105, the **Motorist Insurance Database Program Act**. The legislation creates the motorist insurance database program for the purpose of establishing a database to use when verifying compliance with the State's requirements for automobile insurance or other motor vehicle financial security. The legislation provides that the Department of Public Safety shall convene a working group with a membership as specified in the bill for the purpose of facilitating the implementation of the program, assisting in development of regulations, and coordinating a testing phase, and necessary changes identified in this testing phase, as prescribed by the working group. The

The Committee reported favorable with amendment on **S.1010**. As reported by the Committee, this joint resolution **establishes and provides for a sixteen member Task Force on Corrections**, charged to identify and study methods to promote fair and effective criminal and juvenile justice systems; provide for monitoring of correctional facilities and programs; and develop and maintain cooperative relationships with public and private organizations involved in corrections, probation, parole, and related issues. The resolution requires that the Task Force report recommendations to the General Assembly before March 1, 2003. The resolution provides that the Task Force terminates on the date it files its report or March 1, 2003, whichever occurs first.

The Committee reported favorable with amendment on **H.4713**. As reported by the Committee, this bill **requires the coroner or medical examiner, or their deputies, to complete the certification of cause of death portion of a death certificate rather than to complete and sign the certification** of cause of death portion of a death certificate within the prescribed time period. The bill allows for written and/or electronic signatures on death certificates. The bill also requires that reports of birth, death, and fetal death be transmitted at intervals prescribed to the State Registrar rather than forwarded to the County Registrar.

WAYS AND MEANS

The full Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.5174 AQUACULTURE Rep. Sharpe

This is a comprehensive bill providing numerous statutory revisions which promote the aquaculture industry in South Carolina. The *South Carolina Code of Laws* defines "aquaculture" as the controlled cultivation of aquatic species in confinement, including breeding, spawning, rearing, and growing out either alone or in combination and trafficking in the fish.

S.1204 USE OF FIREARMS OR ARCHERY TACKLE Sen. Gregory

This bill deletes certain statutory references to criminal negligence regarding reckless use of firearms or archery tackle. The bill defines "recklessness" as the reckless disregard for the safety of others or their property. The bill also provides

S.244 CHARTER SCHOOLS Sen. Ritchie

This bill includes numerous provisions amending current charter school statutes in South Carolina:

- **Findings/Intent**

The bill includes a statement that *"because the State no longer sanctions a system of segregated schools, it is the intent of the General Assembly that creation of this chapter encourages cultural diversity, educational improvement, and academic excellence. Further, it is not the intent of the General Assembly to create a segregated school system but to continue to promote educational improvement and excellence in South Carolina."*

- **Fingerprinting/Noncertified Teachers**

The legislation amends the definition of "noncertified teacher" for purposes of charter schools. "Noncertified teacher" is currently defined as an individual considered appropriately qualified for the subject matter taught, and who has been approved by the charter committee of the school. The legislation strikes the requirement for approval by the school's charter committee, and adds a requirement for completion of at least one year of study at an accredited college or university and a requirement for state fingerprint review.

- **Teacher Qualifications for Teaching Core Subjects**

The legislation provides that in either a new or converted charter school, a teacher teaching in the core academic areas of English/language arts, math, science, or social studies must be certified in those areas, or possess a baccalaureate or graduate degree in the subject he or she is hired to teach.

The legislation also provides that a charter school may hire in its discretion administrative staff to oversee daily operation of the school, and at least one of the administrative staff must be certified or experienced in the field of school administration.

- **Racial Composition**

The legislation includes a requirement that the racial composition of the charter school enrollment reflect that of the school district or that of the targeted student population which the charter school proposes to serve, as differing by no more than twenty percent.

- **Percent Preference for Charter Committee Children**

The legislation provides that children of the charter committee may be given enrollment priority so long as their enrollment does not constitute more than twenty percent of the enrollment of the charter school.

charter school is operating in a non-discriminatory manner. A finding by the local school district board that the applicant or charter school is operating in a racially discriminatory manner may justify the denial of a charter school application or the revocation of a charter school. A finding by the local school district board that the applicant is not operating in a racially discriminating manner shall justify approval of the charter without regard to the percentage requirement if the application is acceptable in all other aspects.

- **Conditional Authorization of Charter**

Current law provides that a local school board "may" conditionally authorize a charter school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates such authority is necessary for it to meet the relevant statutory requirements. This bill provides that a local school board conditionally "shall" authorize a charter school under such circumstances.

- **Duration of Charter Contract**

Current law provides that a charter may be approved or renewed for a period not to exceed three school years. This legislation provides that a charter may be approved or renewed for a period of **five** school years, and provides that the charter may be revoked or not renewed pursuant to specified statutory provisions.

- **Charter School Funding**

The bill provides that during the first year of a charter school's operation for those schools established on and after July 1, 2004, and upon verification of current funding for the charter school, the school district shall receive through a state reserve fund as established by the General Assembly beginning with fiscal year 2004-2005 an amount equivalent to 100% of the state allocation for the students enrolled in the charter school that were enrolled in other public schools of that district on the 135th day of the previous school year. The bill further provides that the reserve fund shall be available only when the charter school is not initiated or operated by the district.

- **Out of District Transfers to Charter Schools**

The legislation provides that a child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend according to the terms of the charter after in-district children have been given priority in enrollment. The legislation also provides that the out-of-district enrollment shall not exceed twenty percent of the total enrollment of

construction of a fourth state veterans' nursing home in South Carolina, particularly in the lower part of the State; the availability and accessibility of existing nursing and adult daycare facilities to veterans; ways in which the State can maximize use of state tax revenue for the benefit of veterans; and the projected growth of the veteran population during the next twenty years. The resolution provides that the committee shall submit a report to the General Assembly and the Governor by June 2004, upon which time the committee is dissolved.

WAYS AND MEANS

S.1131 RICHLAND COUNTY SCHOOL DISTRICTS PROPERTY TAX RELIEF ACT Sen. Patterson

This bill enacts the *Richland County School Districts Property Tax Relief Act*. The bill provides for the imposition (by county referendum approval), collection, and remitting of a special one percent sales and use tax in Richland County for a maximum of twenty years, with the revenue used to defray general obligation debt service or otherwise defray the costs of capital improvements of the Richland County School Districts.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.net>) and click on "*Publications*," then click on "*Legislative Update*." This will list all of the *Legislative Updates* by date. Click on the date you need.

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